

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1021V

Filed: October 1, 2018

Not to be published

KEVIN McKENNA,

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Petitioner,

*

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v.

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Tdap vaccination; shoulder injury,
necrotizing fasciitis; arm and shoulder
amputation; respondent agrees
compensation is appropriate.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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Michael T. Ratton, Royal Oak, MI, for petitioner.

Debra A. Filteau Begley, Washington, DC, for respondent.

MILLMAN, Special Master

RULING ON ENTITLEMENT¹

On July 28, 2017, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. § 300aa-10-34 (2012), alleging that tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine administered to his left deltoid on September 15, 2015 caused him achiness, cellulitis in his left upper extremity, necrotizing fasciitis, and left arm and shoulder amputation. Pet. at ¶¶ 5, 7, 11, 15, 20, 24.

On October 1, 2018, respondent filed a Rule 4(c) Report stating his “opinion is that this

¹ Because this unpublished ruling on entitlement contains a reasoned explanation for the special master’s action in this case, the special master intends to post this unpublished ruling on entitlement on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the Internet.** Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a ruling on entitlement is filed, petitioner has 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

case is appropriate for compensation under the terms of the Vaccine Act.” Resp’t’s Rep. at 1, 5-6. Respondent recommends further proceedings to determine damages. Id. at 6. Respondent lists the items of proof from petitioner respondent needs to help determine appropriate compensation, including whether or not petitioner has received workers compensation. This case is now in damages.

Considering the gravity of petitioner’s injuries, the undersigned awards \$250,000.00 in pain and suffering which will be part of a forthcoming award of damages when the other items of damage are determined.

Petitioner shall file a status report by October 31, 2018 on the progress he has made in providing all the information respondent requests and making a demand on respondent. When petitioner makes a demand on respondent, petitioner shall file a separate status report on the day he has made the demand.

IT IS SO ORDERED.

Dated: October 1, 2018

/s/ Laura D. Millman
Laura D. Millman
Special Master